

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION

United States of America

vs.

(1) Justin Silvernale

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NO: AU:18-CR-00361(1)-RP

ORDER ACCEPTING REPORT AND RECOMMENDATION -
OF THE UNITED STATES MAGISTRATE JUDGE

Before the court is the above styled and numbered cause. On June 2, 2023 (amended on September 19, 2023) the United States Probation Office filed a Petition For Warrant or Summons For Offender Under Supervision for Defendant Justin Silvernale, which alleged that Silvernale violated a condition of his supervised release and recommended that Silvernale 's supervised release be revoked. A warrant was issued and Silvernale was arrested. On October 20, 2023, Silvernale appeared before a United States Magistrate Judge, was ordered detained, and a revocation of supervised release hearing was set.

Silvernale appeared before the magistrate judge on November 3, 2023, waived his right to a preliminary hearing and to be present before the United States District Judge at the time of modification of sentence, and consented to allocution before the magistrate judge. Following the hearing, the magistrate judge signed her report and recommendation, which provides that having carefully considered all of the arguments and evidence presented by the Government and Defendant, based on the original offense and the intervening conduct of Silvernale, the magistrate judge recommends that this court revoke Silvernale

supervised release and that Silvernale be sentenced to imprisonment for 7 months, with no term supervised release to follow the term of imprisonment (Clerk's Document No. 60).

A party may serve and file specific, written objections to the proposed findings and recommendations of a magistrate judge within fourteen days after being served with a copy of the report and recommendation, and thereby secure a *de novo* review by the district court. *See* 28 U.S.C. § 636(b); Fed. R. Civ. P. 72(b). A party's failure to timely file written objections to the proposed findings, conclusions, and recommendation in a report and recommendation bars that party, except upon grounds of plain error, from attacking on appeal the unobjected-to proposed factual findings and legal conclusions accepted by the district court. *Douglass v. United Services Auto Ass'n*, 79 F.3d 1415 (5th Cir. 1996) (*en bane*). The parties in this cause were properly notified of the consequences of a failure to file objections.

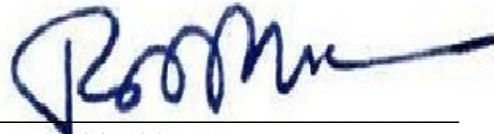
On November 3, 2023, following the hearing on the motion to revoke supervised release, all parties signed a Waiver Of Fourteen Day Rule For Filing Objections To Report and Recommendation Of United States Magistrate Judge (Clerk's Document No. 61). The court, having reviewed the entire record and finding no plain error, accepts and adopts the report and recommendation filed in this cause.

IT IS THEREFORE ORDERED that the Report and Recommendation of the United States Magistrate Judge filed in this cause (Clerk's Document No. 60) is hereby **ACCEPTED AND ADOPTED** by this court.

IT IS FURTHER ORDERED that Defendant Justin Silvernale's term of supervised release is hereby REVOKED.

IT IS FURTHER ORDERED that Defendant Justin Silvernale be imprisoned for 7 months with no term of supervised release. This sentence reflects a downward variance of 3 months pursuant to 18 U.S.C. §§ 3553(a) and 3584(a), as discussed in USSG § 5G1.3(d) Application Note 4(E).

Signed this 9th day of November, 2023.

A handwritten signature in blue ink, appearing to read 'R. Pitman', is written over a horizontal line.

ROBERT PITMAN
UNITED STATES DISTRICT JUDGE